

Notice of Allowability

Application No.

10/050,680

Applicant(s)

PECORINI ET AL.

Examiner

Art Unit

Callie E. Shosho

1714

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to amendment filed 9/13/04 and telephonic interview conducted 11/16/04.
2. The allowed claim(s) is/are 1, 3-5, 7, 9-11, 13-16, and 18-25.
3. The drawings filed on 15 January 2002 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 1) hereto or 2) to Paper No./Mail Date _____.
(b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date _____.
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
 Paper No./Mail Date _____.
4. Examiner's Comment Regarding Requirement for Deposit
 of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
 Paper No./Mail Date 11/16/04.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

(1) Claim 19, line 2, after "a" and before "copolymer", insert "concentrate comprising".

(2) Claim 19, line 6, after "the" and before "does", delete "copolymer" and insert "concentrate".

(3) Claim 21, line 1, after "base" and before "and", delete "polymer" and insert "polyester".

2. Authorization for this examiner's amendment was given in a telephone interview with James Proscia on 11/16/04.

Statement of Reasons for Allowance

3. The present claims are allowable over the “closest” prior art EP 277598, Petiniot et al. (U.S. 2001/0049424), Siegle et al. (U.S. 3,766,126), and Rondy et al. (U.S. 5,824,731) for the following reasons:

EP 277598 discloses concentrate comprising colorant such as pigment or dye and 30-95% ethylene ethyl acrylate copolymer obtained from 50-93% ethylene. However, present claim 1 requires copolymer comprising one or more of ethylene methyl acrylate copolymers (EMA), ethylene methyl methacrylate copolymers (EMMA), ethylene ethyl methacrylate copolymers (EEMA), ethylene butyl acrylate copolymers (EBA), or ethylene butyl methacrylate copolymers (EBMA). There is no disclosure or suggestion of such copolymers in EP 277598. Rather, EP 277598 requires the use of ethylene ethyl acrylate copolymer, which, in light of the amendment filed 9/13/04, is outside the scope of present claim 1. Further, there is no disclosure or suggestion in EP 277598 of method comprising adding the concentrate to base polyester as required in present claims 10 and 19. There is no disclosure in EP 277598 of polyester and thus, no disclosure of polyester composition comprising base polyester and concentrate as required in present claim 21.

Petiniot et al. (U.S. 200/0049424) disclose concentrate comprising pigment and up to 25% copolymer such as ethylene butyl acrylate, ethylene ethyl acrylate, and ethylene methyl acrylate wherein the concentrate contains no water and is used to color polyester. There is further disclosed a polyester composition comprising 0.5-30% of the concentrate and polyester as well as a method of adding the concentrate to the polyester. However, there is no disclosure or

suggestion in Petiniot et al. that the copolymer comprises from about 40 wt.% to about 99 wt.% ethylene as required in all the present claims.

Siegle et al. (U.S. 3,766,126) disclose color concentrate comprising 80-20% ethylene/aminoalkyl (meth)acrylate that contains 50-95% ethylene and 20-80% colorant wherein the color concentrate is used to color polyester. There is further disclosed a polyester composition comprising 0.5-10% of the concentrate and polyester as well as a method of adding the concentrate to the polyester. However, there is no disclosure in Siegle et al. that the concentrate comprises olefin/(meth)acrylate copolymer wherein the copolymer comprises one or more of ethylene methyl acrylate copolymers (EMA), ethylene methyl methacrylate copolymers (EMMA), ethylene ethyl methacrylate copolymers (EEMA), ethylene butyl acrylate copolymers (EBA), or ethylene butyl methacrylate copolymers (EBMA) as required in present claim 1 or EMA, EMMA, EEMA, EBA, EBMA, or ethylene ethyl acrylate (EEA) copolymers as required in present claims 10, 19, and 21.

Rondy et al. (U.S. 5,824,731) disclose color concentrate that comprises 20-70% carbon black and thus, 80-30% polymer including ethylene (meth)acrylate copolymer. However, there is no disclosure or suggestion that the copolymer comprises from about 40 wt.% to about 99 wt.% ethylene as required in all the present claims. Further, there is no disclosure or suggestion of method comprising adding such concentrate to base polyester material as required in claims 10 and 19.

Thus, EP 277598, Petiniot et al., Siegle et al. and Rondy et al., either alone or in combination, do not disclose or suggest the present invention.

Further, applicants' amendment filed 9/13/04 overcomes the claim objections of record.

In light of the above, the present claims are passed to issue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 571-272-1123. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11/17/04

Callie Shosho
Callie E. Shosho
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